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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LOUIS RANDOLPH,

Petitioner - Appellant,

v.

DON HELLING,

Respondent - Appellee.

No. 05-15596

D.C. No. CV-02-00429-RCJ/LRL

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Robert C. Jones, District Judge, Presiding

Submitted October 19, 2007^{**}
San Francisco, California

Before: ROTH^{***}, THOMAS, and CALLAHAN, Circuit Judges.

Louis Randolph appeals the district court's denial of his petition for a writ of habeas corpus. We affirm. Because the parties are familiar with the factual and

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

^{***} The Honorable Jane R. Roth, Senior United States Circuit Judge for the Third Circuit, sitting by designation.

procedural history of this case, we need not recount it here.

Federal courts will not review a state court's decision on a prisoner's habeas petition when the decision rests on an independent and adequate state law ground. *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). "The doctrine applies to bar federal habeas when a state court declined to address a prisoner's federal claims because the prisoner had failed to meet a state procedural requirement." *Id.* at 729-30.

We have previously held that NEV. REV. STAT. § 34.726(1) is both an adequate and independent state law ground for dismissing a habeas petition. *Moran v. McDaniel*, 80 F.3d 1261, 1269-70 (9th Cir. 1996). Here, the state court stated that its basis for denying Randolph's petition was section 34.726(1) and did not reference or rely on any federal law. Randolph's claim that his counsel was ineffective for failing to file a timely post-conviction petition is not good cause to excuse the delay. *See Moran*, 80 F.3d at 1270-71. Thus, Randolph's claim for habeas relief fails.

We decline to certify Randolph's insufficiency of the evidence claims. Randolph failed to meet his burden of making "a substantial showing of the denial of a constitutional right" with respect to his claims. 28 U.S.C. § 2253(c)(2).

For the foregoing reasons, the district court's denial of Randolph's petition is **AFFIRMED**.